

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10956REK

ERNEST OGLETREE
Plaintiff

v.

CITY OF ATTLEBORO,
STURDY MEMORIAL
HOSPITAL, INC., JAMES G.
MACDONALD, DOUGLAS
JOHNSON, MICHAEL
BARTUCCA, ROBERT ASTIN,
AND LEWIS RHEAUME
Defendants

MOTION FOR ORDER TO INSPECT MEDICAL RECORDS

The Defendant, Sturdy Memorial Hospital, respectfully moves this Honorable Court for an order for the furnishing for inspection and copying of all medical, psychiatric, psychological and social service records of Plaintiff, Ernest Ogletree, Date of Birth 11/30/61, kept by the Keeper of the Records, Simona M. Manasian, M.D., Boston Med Ctr/Preston Bldg., 732 Harrison Ave, Boston, MA 02118-2393, such records being kept subject to the provisions of Chapter 11, General Laws, and being admissible under the provisions of General Laws, Chapter 233, § 79G.

FOR CAUSE, this is a medical malpractice action in which the plaintiffs claims that he sustained injuries in connection with an alleged assault by defendants City of Attleboro and Sturdy Memorial Hospital by and through their employees, agents and/or servants. The plaintiff alleges that as a result of the defendants' negligence, he sustained injuries including chronic lower back pain for which he received care and treatment from Simona M. Manasian, M.D. Any

and all medical care that the plaintiff has undergone since the incident allegedly giving rise to his injuries is relevant to the defense of this case.

Upon information and belief, the medical records of Simona Manasian, M.D. may contain valuable information regarding the plaintiff's condition. Since the ability of the Defendants to defend the suit depends largely on what, if any, care and treatment the plaintiff underwent both before and after the incident, the release of the records is necessary in this case and does not violate Plaintiff's privacy. While medical records are confidential prior to litigation as between the parties, once litigation has begun, medical records are discoverable subject to Mass.R.Civ.P. 26. The defendants have no other means of obtaining the plaintiff's medical information than to obtain a court order for the inspection and copying of these records.

The plaintiff's care and treatment since the incident will be a key issue at trial. The information sought by Defendant concerning the plaintiff's medical records is relevant for purposes of the course of and interruptions in medical care. The Defendants intend to use this information to prepare for the impeachment of the plaintiffs as witnesses at trial, and to investigate any additional facts that may lead to the discovery of admissible evidence at trial. The Defendants, by counsel, certify that any medical information will be used for trial strategy only and/or impeachment purposes on the issue of the plaintiffs' credibility, and to investigate other areas of discovery which may be revealed by the medical records.

The Defendants, by counsel, will not otherwise disclose the medical information obtained as a consequence of this order to unauthorized persons as required by law. A proposed Order is attached hereto. The Defendants, by counsel, submit that there is good cause for this Court to issue an Order releasing medical records of Simona Manasian, M.D. pertaining to Ernest Ogletree.

WHEREFORE, the Defendant, Sturdy Memorial Hospital, respectfully requests that this Honorable Court allow its Motion to Inspect and Copy the medical records of Simona Manasian,

M.D., as such information is critical to the ability to prepare for trial.

The Defendant
Sturdy Memorial Hospital
By its attorney,

/s Allison K. Gurley
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Dated: December 18, 2006